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February 19, 2003

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Federal Communications Commission
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RE: WC DOCKET NO. 03-45
Petition by pulver.com on behalf of Free World Dialup

Introduction

The petition by **pulver.com** on behalf of its Free World Dialup (FWD) service argues that calls over **FWD** use the Internet and never touch the public switched telephone network (PSTN). The service should therefore be exempt from regulation because the purview of regulation is limited to the PSTN.

Those who oppose the petition say that "a call is a call is a call." Free World Dialup is providing telephone service and the fact that it uses the Internet and not the **PSTN** is only a difference in technology. If there is a public interest in regulating telephone service, then there is a public interest in regulating FWD.

The New Telecommunications Paradigm

What the Commission faces, in this and other instances, are the effects of a disruptive technology – a disruptive technology that is changing the telecommunications landscape but that has not been fully implemented. Virtually every observer of the telecommunications scene agrees that the Internet Protocol will replace the circuit-switched network. It is not a matter of "whether" but "**when**." And it is not only the underlying technology that is changing. New technology is also bringing about a change in the telecommunications paradigm.

The key to the new paradigm is that, with the Internet Protocol, a phone call is no different from an **email**, an instant message, a video clip, or any other information. All are packets made up of bits and bytes. **All** traverse the Internet in more or less the same way.

This new paradigm has a number of implications. One is the demise of traditional usage-based pricing. This is hardly a¹¹ original observation, and the emergence of various flat rate plans (**e.g.**, MCI's Neighborhood Plan and the mobile phone operators' "buckets") show that the market has already recognized this reality.

Another set of implications has to do with mobility. Calls made to a local number might ring a subscriber's phone in Africa, where s/he is on business or vacation. Is the call a local call or an international one?

Implications for Regulation – The Central Role of Access

Once one accepts that the paradigm is changing, then the task of regulators becomes considerably easier. The public's interest is in access. Let the market decide how to provide services over access, but make sure that there is access and that it is not only as universal as possible but also as reliable and affordable as possible.

In a very real sense, this approach returns the Commission to the role it played when regulation began. In the days when there was little infrastructure, the goal of the Commission was to ensure investment that would lead to universality. To achieve this goal, it agreed to trade-offs: the monopoly (AT&T) would be granted assured rates of return in exchange for extending service and for accepting limits on what might have been its excesses.

This is the issue today. Despite what many in the Internet communities believe, a completely open and unregulated Internet is not the best of all possible worlds. Without some attention to availability, reliability, cost, issues such as 911 – in other words, without some concern for the legitimate public interest in telecommunications – the promises of the new paradigm will go unrealized.

This focus on access also addresses Commission and state regulator concerns about the incumbents. It is essential that they are able to provide, support and maintain local access, whether copper or fiber. If that means that competitive local exchange carriers need to pay more for network elements, so be it. The time will come when wireless, fiber optics, etc., will provide alternatives to the incumbents. But that will not happen overnight. In the meantime, the network they have built – and that ratepayers have paid for – needs to be protected.

What does all of this say in regard to the pulver.com petition? I believe it says that the Commission should grant the petition but turn its attention as quickly as possible to the question of regulating access. The petition concerns a minor issue. The paradigm change is well underway and nothing the Commission can do will reverse it, short of persuading the Congress to outlaw the Internet. The continued relevance of regulation depends not on what is transported over the Internet Protocol, but whether there is access to it.

Thank you for the opportunity to share my thoughts with you

Very truly yours,



Victor von Schlegell